

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

PNC BANK, N.A.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	<b>2:04cv1576</b>
	)	<b>Electronic Filing</b>
	)	
UNITED STATES OF AMERICA,	)	Judge Cercone
	)	Magistrate Judge Hay
Defendant.	)	

ORDER

AND NOW, this 16<sup>th</sup> day of May, 2006, after the plaintiff, PNC Bank, N.A., filed an action in the above-captioned case, and after cross motions for summary judgment were filed, and after a Report and Recommendation was filed by the United States Magistrate Judge granting the parties ten days after being served with a copy to file written objections thereto, and upon consideration of the objections filed by the defendant, United States of America, and the response thereto filed by the plaintiff, and upon independent review of the motion and the record, and upon consideration of the Magistrate Judge's Report and Recommendation, which is adopted as the opinion of this Court, and it appearing that there is now binding precedent in this circuit, that is, Reese Brothers, Inc. v. United States, 2006 WL 1228908 (3d Cir. May 9, 2006), on the precise issue raised in this case that compels a finding in plaintiff's favor,

IT IS HEREBY ORDERED that the plaintiff's Motion for Summary Judgment [Document No. 37] is GRANTED and the defendant's Motion for Summary Judgment [Document No. 46] is DENIED.

IT IS FURTHER ORDERED that, pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, if the defendant desires to appeal from this Order it must do so within thirty (30) days by filing a notice of appeal as provided in Rule 3, Fed.R.App.P.

*D. Stewart Cercone*

---

DAVIS STEWART CERCONI  
United States District Judge

cc: Honorable Amy Reynolds Hay  
United States Magistrate Judge

John H. Riordan, Jr., Esquire  
Polito & Smock  
Four Gateway Center  
Suite 400  
Pittsburgh, PA 15222

Joseph A. Boyle, Esquire  
Jacob J. Miles, Esquire  
Paul L. Kattas, Esquire  
Kelley, Drye & Warren  
101 Park Avenue  
New York, NY 10178

Michael C. Colville  
Assistant United States Attorney  
700 Grant Street, Suite 400  
Pittsburgh, PA 15219

Ivan C. Dale  
Trial Attorney, Tax Division  
U.S. Department of Justice  
P.O. Box 227  
Ben Franklin Station  
Washington, D.C. 20044